

1 NIAL P. McCARTHY (SBN 160175)
nmccarthy@cpmlegal.com
2 JUSTIN T. BERGER (SBN 250346)
jberger@cpmlegal.com
3 ERIC J. BUESCHER (SBN 271323)
ebuescher@cpmlegal.com
4 SHAUNA R. MADISON (SBN 299585)
smadison@cpmlegal.com
5 **COTCHETT, PITRE & McCARTHY, LLP**
San Francisco Airport Office Center
6 840 Malcolm Road
Burlingame, CA 94010
7 Telephone: (650) 697-6000
Facsimile: (650) 697-0577

8 JEFFREY F. RYAN (SBN 129079)
jeff@jeffreyryanlaw.com
9 **LAW OFFICES OF JEFFREY F. RYAN**
2000 Broadway Street
10 Redwood City, CA 94063
11 Telephone: (650) 324-8343

12 *Attorneys for Plaintiff Dane Smith*

13 **UNITED STATES DISTRICT COURT**

14 **NORTHERN DISTRICT OF CALIFORNIA**

15 DANE SMITH, an individual,

16 Plaintiff,

17 v.

18 VMWARE, INC., a Delaware corporation,

19 Defendant.

CASE NO. 3:15-cv-03750-TEH

**JOINT STIPULATION TO CONTINUE THE
MOTION TO COMPEL ARBITRATION
HEARING AND CASE MANAGEMENT
CONFERENCE; ~~PROPOSED~~ ORDER**

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**JOINT STIPULATION TO CONTINUE THE MOTION TO COMPEL ARBITRATION
HEARING AND CASE MANAGEMENT CONFERENCE; PROPOSED ORDER;
CASE NO. 3:15-cv-03750-TEH**

Pursuant to Civil L. R. 6-2, Plaintiff Dane Smith and Defendant VMware, Inc. (collectively, the “Parties”) in the above captioned litigation respectfully request that the Court change the date of both the hearing on Defendant’s Motion to Compel Arbitration (ECF No. 76) and the Case Management Conference scheduled in this matter (*see* ECF No. 71).

On August 24, 2015, this case was reassigned to this Court. *See* ECF No. 65. On September 2, 2015, the Court issued a Clerk’s Notice on Reassignment scheduling the Initial Case Management Conference for November 23, 2015, and directing the parties to file their initial case management statement on or before November 16, 2015. *See* ECF 71. Counsel for Defendant is unavailable on November 23, 2015 due to a conflict with a previously scheduled matter that date.

On October 2, 2015, Defendant filed a Motion to Compel Arbitration in this matter, and set the hearing for November 16, 2015. Counsel for Plaintiff will be travelling out of the state and is unavailable that date.

Accordingly, the Parties therefore respectfully request that the Court enter an order setting VMware’s Motion to Compel Arbitration for hearing on December 21, 2015 at 10:00 a.m. The parties are available to have the initial case management conference conducted at the same time, if the Court determines that is appropriate. Alternatively, the parties are available to discuss the scheduling of a new CMC date at the hearing or upon the Court’s ruling on the Motion to Compel. The Parties agree to file a joint case management statement at least seven days prior to the CMC date set by the Court.

IT IS SO STIPULATED.

Dated: October 21, 2015

COTCHETT, PITRE & McCARTHY, LLP

By: /s/ Eric J. Buescher
 NIAL P. McCARTHY¹
 JUSTIN T. BERGER
 ERIC J. BUESCHER
 SHAUNA R. MADISON

Attorneys for Plaintiff Dane Smith

(additional signatures on following page)

¹ Pursuant to Civil L. R. 5-1(i)(3), the filer of this stipulation attests that he has obtained concurrence in the filing of this document from each of the other signatories.

1
2 Dated: October 21, 2015

LAW OFFICES OF JEFFREY F. RYAN

3
4 By: /s/ Jeffrey F. Ryan
JEFFREY F. RYAN

5 *Attorneys for Plaintiff Dane Smith*
6

7 Dated: October 21, 2015

ORRICK, HERRINGTON & SUTCLIFFE, LLP

8
9 By: /s/ Shannon Brooke Seekao
SHANNON BROOKE SEEKAO (SBN 99779)
JESSICA R. PERRY (SBN 209321)
10 LYNNE C. HERMLE (SBN 267536)
11 1000 Marsh Road
Menlo Park, California 94025
12 Tel: 650-614-7400
Fax: 650-614-7401
13 lchermle@orrick.com
jperry@orrick.com
sseekao@orrick.com

14 *Attorneys for Defendant VMware, Inc.*
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[PROPOSED] ORDER

Pursuant to the stipulation of the parties:

The November 16, 2015 hearing date on VMware's Motion to Compel Arbitration is vacated and rescheduled for December 21, 2015 at 10:00 a.m.; and,

The Case Management Conference scheduled for November 23 is hereby vacated. A Case Management Conference will be set at the hearing on December 21, 2015.

IT IS SO ORDERED AS MODIFIED.

Dated: 10/21/2015



Hon. Thelton E. Henderson